

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

WACHOVIA SECURITIES, LLC, a Delaware Corporation and successor in interest to A.G. EDWARDS & SONS, INC.,

Plaintiff,

v.

FRANK J. BRAND, II, MARVIN SLAUGHTER, STEPHEN N. JONES, AND GEORGE W. STUKES, individuals,

Defendants.

CIVIL ACTION NO.08-02349-TLW

**PLAINTIFF WACHOVIA SECURITIES, LLC'S  
REPLY IN FURTHER SUPPORT OF REQUEST FOR LEAVE  
TO SUBMIT SUPPLEMENTAL BRIEFS**

Defendants have opposed Plaintiff's request for leave to submit supplemental briefs analyzing *Raymond James Financial Svcs., Inc. v. Bishop*, 596 F.3d 183 (4<sup>th</sup> Cir. 2010), a recent case in which the Fourth Circuit Court of Appeals vacated an arbitration award.<sup>1</sup> Even though the *Raymond James* Court acted pursuant to Section 10(a)(4) of the Federal Arbitration Act—the same basis on which Wachovia Securities has urged vacation of the award rendered in this action—Defendants contend that “*Raymond James* bears no relevance to the instant matter.” *Def. Response*, at p. 2. Mischaracterizing the basis for Wachovia Securities’ Motion To Vacate, Defendants maintain that Wachovia is contending only that the

---

<sup>1</sup> By Order dated March 26, 2010, the Fourth Circuit Court of Appeals denied Appellants' Petition for Rehearing and Petition for Rehearing *En Banc* in *Raymond James*.

“arbitration panel in the instant matter either misinterpreted or misapplied substantive state law.” *Id.*

Defendants are mistaken. To adopt a phrase used by the *Raymond James* Court, “the arbitration panel [here] committed no mere error of law.” Slip Op. at 18. Rather, as extensively discussed by Wachovia Securities in its prior submissions to this Court, the panel below lacked the very power to act under the South Carolina Frivolous Proceedings Act. Consequently, the panel “exceeded its power” by attempting to award sanctions under that Act, and its sanctions award must be set aside under Section 10(a)(4) of the FAA. The reasoning and result of *Raymond James* are thus substantially relevant to Wachovia Securities’ Motion To Vacate, and supplemental briefing would be both helpful and appropriate.

This 6<sup>th</sup> day of April, 2010.

ROBINSON, BRADSHAW & HINSON, P.A.

/s/ Stephen M. Cox  
 \_\_\_\_\_  
 Stephen M. Cox  
 Fed. I.D. No. 6913  
 Benjamin A. Johnson  
 Fed. I.D. No. 2186  
 ROBINSON BRADSHAW & HINSON, P.A.  
 140 East Main Street, Suite 420  
 Rock Hill, South Carolina 29730  
 (803) 325-2900

MCANGUS GOODELOCK & CURRIE, LLC  
 700 Gervais Street, Suite 300  
 Columbia, South Carolina 29211  
 (803) 779-2300

PADUANO & WEINTRAUB LLP  
 1251 Avenue of the Americas  
 Ninth Floor  
 New York, New York 10020  
 (212) 785-9100